

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE I. VELAZQUEZ,

Plaintiff,

-v-

KATHLEEN G. GERBING, *et al.*,

Defendants.

No. 18-CV-8800 (KMK)

ORDER TO SHOW CAUSE

KENNETH M. KARAS, United States District Judge:

By letter dated May 4, 2020, Plaintiff notified the court that his address was Willow Men's Shelter, 781 East 135 Street, Bronx, NY 10454 ("781 E. 135th"). (Dkt. No. 72.) By letter dated August 24, 2020, Plaintiff notified the court that he had moved from his "temporary" housing to a hotel, still under the supervision of Willow Men's Shelter, at 4747 Bronx Boulevard, Bronx, NY 10470 ("4747 Bronx Blvd."). (Dkt. No. 81). The Court ordered that the docket be updated to reflect Plaintiff's new address. (Dkt. No. 82.) Plaintiff filed a letter dated September 23, 2020, (Dkt. No. 84), and an affidavit of service dated October 20, 2020, (Dkt. No. 88), both of which reflected the 4747 Bronx Blvd. address. In support of their Motions To Dismiss, (*see* Dkt. Nos. 77, 90), Defendants filed a memorandum of law on November 6, 2020, (Dkt. No. 91), which it served upon Plaintiff at 4747 Bronx Blvd., (Dkt. No. 92). Plaintiff responded to this memorandum in a filing dated November 12, 2020. (Dkt. No. 93.) This filing reflected the 4747 Bronx. Blvd. address, (*id.*), and it explicitly referenced Defendants' November 6, 2020 memorandum, (*id.* at 2).

On March 9, 2021, the Court granted Defendants' Motions To Dismiss. (Dkt. No. 94.) The Court dismissed Plaintiff's claims without prejudice and gave Plaintiff 30 days to file a

second amended complaint addressing the deficiencies identified in the Opinion & Order. (*Id.*) The Clerk of the Court mailed a copy of this Opinion & Order to Plaintiff, (*see* Dkt. (entry for Mar. 9, 2021)), and the Court received no notice of returned mail. On April 22, 2021, the Court issued an Order To Show Cause, directing Plaintiff to show cause by no later than May 24, 2021, as to why this case should not be dismissed for failure to prosecute. (Dkt. No. 98.) The Clerk of the Court mailed a copy of this Order to Plaintiff. (*See* Dkt. (entry for Apr. 22, 2021).) The mail was returned to the Clerk of the Court as not deliverable. (*See* Dkt. (entry for May 19, 2021).) Plaintiff was advised of his obligation to promptly submit a written notification to the Court in the event that his address changed, and that failure to do so may result in dismissal of the case. (*See* Dkt. Nos. 7, 83.) Plaintiff has not responded to the Order to Show Cause or otherwise communicated with the Court.

Accordingly, it is hereby:

ORDERED that Plaintiff shall show cause, by no later than June 28, 2021, as to why this case should not be dismissed for failure to prosecute. *See Armstrong v. Guccione*, 470 F.3d 89, 103 n.1 (2d Cir. 2006) (noting that “a federal district court has the inherent power to dismiss a case *sua sponte* for failure to prosecute” (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626 630–32 (1962))). The Court may dismiss this case without further notice in the event that good cause is not shown.

The Clerk of Court is directed to mail a copy of this Order to Plaintiff.

SO ORDERED.

DATED: May 27, 2021
White Plains, New York



KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE